

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

CLIFFORD S DANIELS,

Plaintiff,

v.

THE BOEING COMPANY,

Defendant.

CASE NO. C13-5679 RBL

ORDER GRANTING PARTIAL  
SUMMARY JUDGMENT

[Dkt. #32]

THIS MATTER is before the Court on Defendant Boeing's Motion for Partial Summary Judgment [Dkt. # 32]. A Boeing employee drove a forklift into a cart that in turn struck Plaintiff Clifford Daniels, causing a shin laceration that required surgery and a two week hospital stay. Daniels claimed that the industrial accident also aggravated a pre-existing, degenerative condition in both knees. L&I determined Daniels's knee condition pre-dated the accident, and he appealed. The Board of Industrial Insurance Appeals affirmed, and Daniels sought a trial de novo in Superior Court. The Pierce County Judge similarly determined that the knee condition was not related to or caused by the accident. Daniels's appeal of that judgment is pending.

In the meantime, Daniels sued Boeing here, claiming Boeing is liable for all of his claimed injuries, including his knees. Boeing concedes it is liable for all of the damages caused

1 by the accident, but argues the “pre-existing” nature of the claimed knee injuries has already  
2 been determined as a matter of law. Daniels argues that the prior adjudication is not binding,  
3 both because Boeing was not a party to it and because it is not yet final.

#### 4 **I. FACTUAL BACKGROUND**

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6 In 2010, Daniels, a DHL Express driver, was picking up a shipment at Boeing’s Spare  
7 Parts Building. While he did paperwork, a Boeing employee drove a forklift into a cart, which in  
8 turn struck Daniels’s lower legs. He suffered a laceration on his left shin, a few inches below his  
9 knee. Daniels spent 12 days in the hospital, undergoing muscle and skin grafts. Daniels has  
10 admitted he had a pre-existing degenerative knee condition and osteoarthritis, but claims the  
11 Boeing accident also aggravated his arthritic knees.

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13 Daniels made an L&I claim against DHL. L&I adjudicated the extent of the damages to  
14 his leg and knees, and determined that the knee issues were not caused by the accident. He  
15 appealed to the Board of Industrial Insurance Appeals. It affirmed, concluding: “the evidence  
16 does not indicate on a more probable than not basis that the claimant sustained knee injuries  
17 during his 2010 accident.”

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19 Daniels sought a trial de novo in Pierce County Superior Court. Though he could have  
20 demanded a jury trial, he chose to have the case heard from the bench. Daniels again did not  
21 dispute the pre-existing knee injury, but claimed the accident proximately caused aggravation  
22 and a resulting disability. Judge Linda Lee determined there was pre-existing end stage  
23 degenerative arthritis, and that no evidence linked that condition specifically to the accident. She  
24 found that the accident did not cause or aggravate Daniels’s degenerative knee condition, and  
25 affirmed the Board’s decision. Daniels’s appeal of that judgment to the Washington Court of  
26 Appeals is pending.  
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1 which a reasonable [fact finder] could return a [decision] in its favor.” *Triton Energy*, 68 F.3d at  
2 1220.

3 Collateral estoppel prevents re-litigation of an issue “when an issue of fact or law is  
4 actually litigated and determined by a valid and final judgment, and the determination is essential  
5 to the judgment.” *Amadeo v. Principal Mutual Life Insurance Co.*, 290 F.3d 1152, 1159 (9th  
6 Cir. 2002). Collateral estoppel applies when the following factors are satisfied: first, the issue  
7 decided in the prior adjudication is identical to the issue in the present action; second, the prior  
8 adjudication resulted in a final judgment on the merits; and third, the party against whom  
9 collateral estoppel is asserted was a party or in privity with a party to the prior adjudication. The  
10 party against whom collateral estoppel is asserted must have had a full and fair opportunity to  
11 litigate the issue in the prior proceeding. *See Maciel v. Comm’r of Internal Revenue*, 489 F.3d  
12 1018, 1023 (9th Cir. 2007). And the determination of the issue must have been essential to the  
13 prior judgment. *Amadeo*, 290 F.3d at 1159.  
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15 The party asserting collateral estoppel does not have to be a party in the prior proceeding.  
16 Rather, collateral estoppel requires only that the party *against* whom it is asserted must have  
17 been a party to (or in privity with a party to) the prior adjudication. *Christensen v. Grant County*  
18 *Hosp.*, 152 Wn.2d 299, 306 (2004); *Carter v. C.I.R.*, 746 F.3d 318, 321 (7<sup>th</sup> Cir. 2014). It is clear,  
19 therefore, that Boeing’s absence as a party to the prior proceeding does not deprive the judgment  
20 rendered there from collateral estoppel effect. Daniels *was* a party, and he had (multiple)  
21 demonstrably “full and fair” opportunities to litigate the issue. If it resulted in a “final judgment  
22 on the merits,” the prior adjudication is entitled to collateral estoppel effect as a matter of law.  
23 The only remaining issue is whether the fact that Daniels appealed that judgment prevents it  
24 from being final,” thus depriving it of collateral estoppel effect.  
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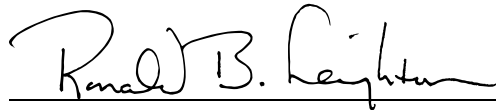
1 In Washington, the appeal of an adverse judgment does not deprive it of finality for  
2 purposes of collateral estoppel. *See Nielson v. Spanaway Gen. Med. Clinic, Inc.*, 135 Wn.2d  
3 255, 264 (1998) (an appeal does not suspend or negate the collateral estoppel aspects of a  
4 judgment entered after trial); *Gausvik v. Abbey*, 126 Wn. App. 868, 883 (2005) (same).

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6 Daniels asserts that collateral estoppel does not apply because the Court of Appeals has  
7 not ruled. The Superior Court already determined the knee injury issue, and that judgment is  
8 “final” despite Daniels’s appeal. Collateral estoppel bars Daniels from seeking those damages in  
9 this case as a matter of law.

10 Boeing’s Motion for Partial Summary Judgment on Daniels’s claimed “knee injuries” is  
11 GRANTED, and Daniels’s claim for those damages is DISMISSED.

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13 IT IS SO ORDERED.

14 Dated this 7<sup>th</sup> day of October, 2014.

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17 RONALD B. LEIGHTON (as authorized/dn)  
18 UNITED STATES DISTRICT JUDGE  
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